1: Tew E-4 · (no date) 1950 FT7 Yao FT7



Administration, but many cannot afford to do this. The people regard the taxes they pay to the Administration as a substitute for the chief's tribute. As the Native Authority the chief appears to be responsible for tax-collection, as the tax-clerk lives at the court.

The chief is responsible to the Administration, among other things, for latrine construction and for punishing the infringement of various regulations. His main duties are judicial, as judge of the Native Authority Court. The bureaucracy attached to the Native Authority includes a number of functionaries, e.g. Kawinga's, in 1947 one of the larger courts, had 1 court clerk, 1 assistant court clerk, 1 community worker, 1 forest guard, 1 agricultural demonstrator, 1 sanitary inspector, 9 court messengers, 2 caretakers, 4 gazette men, 1 market clerk, 1 market sweeper, 6 court assessors. These are paid by the Native Treasury. Court assessors help in the arbitration of cases. The key position at court is held by the court clerk, and usually he is not a Yao, but an Nguru, who, because he is literate, is the medium of all written communications to and from the chief. The court sergeant is the correct channel of approach to the chief, and the court messengers represent the chief to the villages.

The territory of a Native Authority is divided into 'administrative villages', under officially recognized and paid headmen. Within these areas there are clusters of huts, which do not form officially recognized administrative units, but which are none the less villages under their own hereditary headmen. The administrative village headman is responsible for the payment of taxes in his area, and for the observance of various regulations. He is usually a man with some standing in the Yao social system: one who has the right to conduct a boys' initiation ceremony, or to wear the head-band signifying rank. His authority is derived partly from his status as a senior kinsman, partly from his status as a village headman. If the administrative village under him includes a number of hamlets unrelated to the administrative village headman, he will delegate his responsibilities in these hamlets to their own headmen. Consequently, since village headmen perform administrative duties, whether they are officially recognized or not, there is competition among them for the official posts. In order to bring pressure to bear on the chief to make him concede marks of rank, they may threaten to move out of his area, and so to deplete his following. In spite of this bargaining tool, the position of the village headman *vis-à-vis* the chief is said to be getting progressively weaker. Cases once tried by them are now being taken to the chief's court, and the latter is able to draw on the power of the Administration to establish his dominance over the headmen.

The chief in the modern system stands as the representative of the people to the white Administration, and as the representative of the white Administration to the people. One reason for the lack of direct contact between the Administration and the people is the fact that Yao is not the official language of the district, and therefore Yao interpreters are necessary.

There are some occasions when the chief and his officials perform the functions proper to their office under the old social system. The white Administration is not concerned with their ritual functions, nor with initiation rites, nor does it take cognizance of witchcraft offences. Accusations of witchcraft are judged by the same personnel as accusations of theft or adultery, but they are not dealt with in the court house, nor recorded in the book.

2: Mitchell E-5 (1946-1949) 1956 FT7 Yao FT7



but some also on having killed children by *ndaka*[1] (a disease caused by the mystical influence of sexual intercourse). Secondly, other cases not brought to the court are petty squabbles which do not involve heavy compensation. Examples of these disputes are personal quarrels, disputes over land ownership, petty theft and so on. The Native Authority's court handles mainly cases arising from adultery, which involve compensation varying from £1 10s. to £5; and theft and assault for which similar compensation may be payable. If the case is brought up to the chief's court there is a mechanism whereby the compensation may be enforced. Ordinarily, in those cases which are not tried in the court house, there is no legal sanction behind the payment of the compensation, so that if a man defaults in payment no legal pressure can be brought to bear on him. It is for this reason that such cases are tried in the court house.

The cases are heard by the court assessors who call the witnesses and cross-examine them. Sometimes a chief or his representative is in the court, as at Kawinga's court, but sometimes as in Chiwalo's court, the chief never comes to the court house at all. After the evidence is sifted, one court assessor takes the case to the chief and tells him about it. On the basis of the court assessor's analysis he awards compensation and imposes fines. The court assessor then takes this information back to the court house, reassembles the protagonists, and announces the chief's decision. The losing party has then the opportunity to appeal, first to the court of the Native Authority, if the case was tried in a Subordinate Native Authority's court, and then to the District Commissioner.

Cases tried by the chief in his extra-Administrative capacity are usually tried outside the court house. The same personalities take part in the trial but they act now with reference to a different set of values. The procedure is exactly the same, except that in Chiwalo's area the chief is present at the hearing. He sits somewhat aside from the main body of people but within hearing distance, weaving a mat or making nets while the case is being tried.

In minor cases, if either of the parties is dissatisfied with the decision, he may take the case up to the chief for arbitration and, theoretically, may then take it from him if he is a Subordinate

[1] See Chap. V, p. 112.

chief, his sister's sons and his younger brothers.

Besides the councillors, there were a number of officials known as *mapungu* (sing. *lipungu*), which term I translate as court assessor. These officials have often been confused with the councillors, though they were a completely different set of officials. They were not necessarily village headmen though councillors were always so. Also the position of the court assessors, unlike that of the councillors, was not hereditary. Court assessors were chosen because of their wisdom and debating ability and often slaves were appointed. Councillors were chosen because of their general status in the community and once chosen tended to be succeeded by the heir, who for all intents and purposes, socially replaced his predecessor. The court assessors lived at the court of the chief and they were the correct channel of approach to him. No one could approach the chief without at first approaching a court assessor and reporting his business. The assessor's more important duty, however, was the sifting of evidence in cases in which the chief was arbitrating. The court assessor then recounted this evidence to the chief who delivered his opinion and awarded compensation.

In general the picture that we have of the political organization of the Yao before the Whites came, is that of a number of leaders of kinship groups, who by acquiring sufficient dependants and slaves were able to maintain a certain level of power. Certain groups of them were under the power of more influential leaders (the chiefs) who usually had sufficient resources to send trading caravans down to the coast, which in turn maintained his power over his neighbours. In this loose political organization the importance of being able to control dependants was cardinal and the adage "a chief without people is nothing" (*mulumbo nga nganakola dumbu, nganamo mulumbo!*) sums up the situation pithily.

643 The chiefs are also able more successfully to press their claims to certain gifts from visiting Europeans, particularly in articles which are difficult for Africans to obtain—for example, cartridges. One chief uses his rifle to shoot game and the meat is peddled round the villages by one of his servants. Some are also able to make use of the services of remand prisoners and other villagers in their gardens, thus growing more food and sometimes more of cash crops as tobacco. Other chiefs are able to use their salaries as capital and employ labourers to cultivate tobacco and other cash crops. A few returned labour migrants make small gift payments to the chief.

643 692 The main duty of the chief is the arbitration in disputes. The Native Courts Ordinance established two classes of native courts, called respectively A and B courts, which differ in their powers. Under the same Ordinance court assessors who are remunerated from Native Treasury funds, were appointed.

693 647 The Native Authority's bureaucracy is made up of a large assortment of functionaries and officials, including in the largest court, (Kawinga's), 6 court assessors, 1 court clerk, 1 assistant court clerk, 1 community worker, 1 forest guard, 1 agricultural demonstrator, 1 sanitary inspector, 9 court messengers, 2 caretakers, 4 garetta men,[1] 1 market clerk, 1 market sweeper. Other Native Authorities also have well inspectors. These people are remunerated from the Native Treasury and the most highly paid is usually the court clerk. I do not intend to deal in detail with the duties of each but I shall deal with the more important of them and make some general remarks about their position in the structure.

693 645 The court assessors are supposed to assist in arbitrating cases. Under the old system there were both councillors, *nduna*, and court assessors, *mphungu*, (see p. 144). There is not sufficient provision for the remuneration of both councillors and court assessors in the modern system and there has been a general alteration in their functions. Some of the old councillors are no longer

693 paid by the chief but still advise him, and retain
645 much of the prestige due to their rank, which is inherited. Others have been incorporated as court assessors though they may not actually take part in the duties. Some now combine both sets of duties and function both as councillors and court assessors. Some of the duties of both sets of officials, however, have been taken over by the court clerk and other court functionaries. Although the position of court assessor was part of the old tribal structure, modern court assessors see themselves as occupying a position in a structure largely of White fashioning. I once heard a court assessor when conducting an enquiry into a case of adultery, cut short the prolixity of a witness saying: "None of these long stories. We are conducting this case according to the custom of the Whites."

More illuminating still is the position that the court clerks occupy in the modern structure. [212] They are differentiated from the vast majority of the population because they are literate. All of them have been educated, usually in a mission [563] school. A high proportion of them are Nguru because more Nguru are Christian (hence educated) than Yao (see p. 151). Because he can read and write, the chief court clerk is the medium through which the chief expresses himself in writing and the medium through which he gets written information from the Administrators and others. The court clerk is therefore in a unique position of knowing all the business that comes into the chief's hand by letter. He, of course, must also write the replies so that he has a very good knowledge of what is going on in the territory. In addition, because of his education and knowledge of the ways of the White people the court clerk often makes a better councillor than the uneducated and naive traditional councillor does. Therefore in certain matters the court clerk, rather than the councillor, is the chief's most important adviser.

693 The various other officials have different
647 functions to perform, frequently of a semi-technical nature. There are sanitary inspectors, well inspectors, etc. The court sergeant who is present at the cases now performs many of the

693
647 duties which the court assessor used to in past days. The correct channel of approach to the chief now is through the court sergeant.

In most situations where the chief's orders are to be carried out, the various members of his bureaucracy execute them. For example, when the chief wants some duty to be performed by the villagers, it is the court sergeant or messenger who sees to it. The messengers carry out the instructions and wishes of the chief to all parts of his territory. To the villagers, therefore, the N.A.'s bureaucracy represent the chief when acting as his agent but they also represent the White Administration because much of their interaction with the villagers is in terms of some regulations based upon White values. The court clerk who apprehends a villager and charges him with being in possession of an unlicensed dog is acting, in the eyes of the villager, not so much as an agent of the chief, but rather as an agent of the chief representing the Administration. The sanitary inspector may explain to the man who has been charged with having no latrine, "It is the law that you should have one", and by this he means the White law.

3. *The Position of the Subordinate Native Authorities*

643 I have not yet considered the position of the
648 S.N.A.'s in the structure. In the diagram they are represented as a separate interactional system. The reason why they have been represented thus, is because the S.N.A.'s regard themselves as autonomous units and in no way an integral part of the main interactional system under a chief. Each S.N.A. has his own sub-court and a small bureaucracy of his own. He sets up a replica of the situation under the chief. Each S.N.A. has the insignia of rank that the chief has: he is given the same greeting; wears the red band around his head; holds initiation ceremonies, etc. Each S.N.A. has the duty of making a sacrifice to the ancestors before and after the rains. A recent theft of a sacrificial cloth hung on a tree-shrine in a S.N.A.'s area was held to endanger the rainfall in that area alone. The chief in the area makes use of his position in the structure in relation to the Administration to bring pressure

[See p. 152 — Analyst]